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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/626,437	07/27/2000	Stanley Pietrowicz	1192-US	9500
9941	7590	08/11/2004	EXAMINER	
TELCORDIA TECHNOLOGIES, INC. ONE TELCORDIA DRIVE 5G116 PISCATAWAY, NJ 08854-4157			LEZAK, ARRIENNE M	
		ART UNIT		PAPER NUMBER
		2143		12
DATE MAILED: 08/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/626,437	PIETROWICZ, STANLEY
	Examiner	Art Unit
	Arrienne M. Lezak	2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-7,9,10,12,15,17-20,25-27,29-31,35-47,49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-7,9,10,12,15,17-20,25-27,29-31,35-47,49 and 50 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

1. Examiner notes that no Claims have been amended, cancelled or newly added since issuance of the prior Office Action. Examiner further notes that the claims have been renumbered as advised. Claims not explicitly addressed herein are found to be addressed within prior Office Action dated 27 October 2003 as reiterated herein below.

### *Specification*

2. The abstract of the disclosure is objected to because of the following minor informality: the word “similarly” is misspelled. Correction is required. See MPEP § 608.01(b).

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 12, 17, 18, 25, 29, 37, 40, 42, 44, 46, 48 & 49 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,247,571 to Kay.

4. Claims 1, 2, 12, 17, 18, 25, 29, 37, 40, 42, 44, 46, 48 & 49, Kay discloses a method for delivering data from a service application to a subscriber device by means of a Public Switched Telephone Network (PSTN) and packet switch, (Col. 24, lines 51-55), comprising an originating node and a terminating node, wherein the service application interfaces the PSTN through the originating node and the subscriber device interfaces the PSTN through the terminating node,

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and wherein the PSTN has no embedded knowledge of the service application, (Kay: Abstract; Fig. 2; and Col. 23, lines 34 –65 and Col. 24, lines 1-64), said method comprising the steps of: creating a request message at the service application wherein the request message comprises the generic data format, the data and the data delivery instructions, (whereby the delivery instructions specify to the node a list of possible subscriber devices - via address range or NPA- NXX available on node - served by the node that should receive the data), (Kay: Abstract; Col. 11, lines 5-9; and Col. 24, lines 13-23); transporting the request message from the central server to the PSTN over the originating node-service application interface; routing the request message from the originating node to the terminating node via a Transaction Capabilities Application Part (TCAP) message without establishing a call, (wherein the service application resided outside the PSTN); transporting the data from the terminating node to the subscriber device over the terminating node-subscriber device interface based on the data delivery instructions, (Kay: Col. 12, lines 12-17); defining a response message at the terminating node wherein the response message comprises status data indicating the status of the delivery of the data to the subscriber device or message retrieval request; notification via Simplified Message Desk Interface; autocommand on response; plurality of devices; and routing the response message from the terminating node to the service application, (Kay: Col. 20, lines 60-68; Col. 21, lines 1-19; and Col. 24, lines 6-11). Therefore, this reference may reasonably be read to teach or describe every element or claim limitation of Claims 1, 2, 12, 17, 18, 25, 29, 37, 40, 42, 44, 46, 48 & 49.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-7, 9, 10, 15, 19, 20, 26, 31, 35, 36, 38, 39, 41 & 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,247,571 to Kay in view of US Patent US 6,385,647 B1 to Willis. Kay ('571) is relied upon for the teachings as discussed above relative to Claims 1, 2, 12, 17, 18, 25, 29, 37, 40, 42, 44, 46, 48 & 49.

7. Regarding Claims 3-6, Kay ('571) does not disclose or describe the specific use of a Non-call Associated Signaling Integrated Services Digital Network Interface for use as the originating node-service application interface. Further, Kay ('571) does not disclose or describe the specific use of a GR-30-CORE interface, Non-call Associated Signaling Integrated Services Digital Network Interface, or a Digital Subscriber Loop Interface for use as the terminating node-subscriber device interface.

8. The use of specific type interfaces within the Kay network would have been obvious to one of ordinary skill in this art at the time of invention by applicant as the very nature of the prior art requires synonymous functionalities. The motivation to utilize the ISDN interfaces is based in the knowledge that TCAP is an ISDN application protocol. Thus, the use of TCAP, (Kay: Col. 12, lines 13-16), implies the use of ISDN. Further, motivation to use the ISDN interface as well as other type interfaces is also found in the requirements for Internet transmissions as seen in Willis ('647), (Willis: Col. 10, lines 13-19). The motivation to utilize and GR-30-CORE

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interface and Digital Subscriber Loop is implied as it is a known improvement over the PSTN network of Kay. Thus, Claims 3-6 are unpatentable over the combined teachings of Kay in view of Willis.

9. Regarding Claim 7, Kay does not specifically disclose or describe the method for delivering data wherein the step of routing the request message is based on a PSTN address of the subscriber device and includes the steps of: obtaining a Local Routing Number if the address has been ported; and routing the request message based upon the Local Routing Number if the address has been ported.

10. The use of a specific type routing procedure within the Kay network would have been obvious to one of ordinary skill in the art at the time of invention by applicant as the routing functionality is a required part of the prior art. The motivation to utilize the PSTN routing means is found within Kay ('571) as part of the "virtually unlimited selection of routing control means", (Kay: Col. 18, lines 27-31). Thus, under further consideration of Kay ('571), Claim 7 is found to be unpatentable.

11. Regarding Claims 9, and 19, Kay ('571) does not specifically disclose or describe a method for delivering data wherein transporting the data to the subscriber device occurs regardless of whether the subscriber device is off-hook or on-hook. Furthermore, regarding Claims 10, and 20, Kay does not specifically disclose or describe a method for transporting the data wherein the subscriber device does not require subscriber interaction. Moreover, regarding Claims 26 and 36, Kay does not specifically disclose or describe a community notification service for broadcasting community notification information to the plurality of subscriber devices, (as required by pending Claim 26), nor does Kay specifically describe a commercial

web server interfaced to the Internet which “pushes” data from the commercial Web server to the multi-functional server; and wherein the defined request message comprises the data pushed from the commercial Web server, (as required by pending Claim 36). Yet further, regarding Claims 31, 35 and 41, Kay does not specifically disclose or describe multicast, reception triggering connection, or Unified Messaging Services.

12. Willis ('647) describes a method utilizing multicast satellite broadcast technology as a bridge between telephony operations and the Internet, (Willis: Col. 1, lines 16-19), wherein the enumerated option of “push” technology, (Willis: Col. 3, lines 35-45) implies that knowledge that the receiver is on-hook or off-hook is obviated. Furthermore, subscriber interaction is also obviated. This incorporation of the “push” technology, multicast community notification services, and Internet capabilities from Willis into the Kay network would have been obvious to one of ordinary skill in the art at the time of invention by applicant as the Kay network inherently includes databases for the purposes of implied “pull” functionalities, (Kay: Abstract and Fig. 2). The motivation to combine the “push” technology from Willis into the Kay network is found within Kay as an obvious form of information dissemination in consideration of the functionalities and means described therein. Further, the implication of modem and packet technology within Kay, (Kay: Col. 11, lines 5-9 and Col. 24, lines 51-55), indicate Internet potential and capabilities. Finally, the incorporation of a community notification service is implied within the use of “groups” for information dissemination throughout the Kay patent. Yet further, the use of multicast implies a system in which reception triggers connection, and provides for the incorporation of Unified Messaging System. Thus, under view of Willis ('647), Claims 9, 10, 19, 20, 26, 31, 35, 36, and 41 are also found to be unpatentable.

13. Regarding Claim 15, Kay ('571) does not specifically disclose or describe a method for delivering data wherein the step of transporting the data to the subscriber device further includes the step of over-riding vertical services defined for the terminating node-subscriber device interface based on the data delivery instructions. Kay, however, discloses the use of packet technology, (as noted above), which allows for destination specification, (Kay: Col. 24, lines 51-55).

14. To incorporate the data delivery functionality into the Kay network would have been obvious to one of ordinary skill in the art at the time of invention by applicant as the dissemination of information functionality is central to the Kay network, as noted above. The motivation to incorporate the data delivery functionality into the Kay network is found within Kay, which mentions the use of modems as terminals, (Kay: Col. 11, lines 5-9).

15. Modems as a form of communication device are associated with computers and function to create a communication contact point between computers, networks, and the like. Communication between modems and other devices on the network is handled through the dissemination of information via packets, which packets often contain priority instructions pertaining to all information thereon including delivery data, and which data could include instructions for over-riding vertical services (Willis: Fig. 3 and Col. 11, lines 14-23) defined for the terminating node-subscriber device interface. Claim 15 is also found to be unpatentable.

16. Regarding Claim 43, it is noted that Kay ('571) teaches the majority of this claim, (as noted herein above referring to the limitations of Claim 1, et al.); however, Kay does not specifically disclose or describe the functionality of delivering the data from the service-profiler to the wireless device via the wireless network. Willis ('647) discloses the use of a satellite

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network, (Willis: Abstract and Fig. 1), which is a wireless network. To incorporate the Willis wireless network functionality into the Kay network would have been obvious to one of ordinary skill in the art at the time of invention by applicant as the basic network functions of information dissemination are inherent within both designs.

17. The motivation to incorporate the Willis wireless network functionality into the Kay network is found within Kay as noted above. Kay indicates that any communication device may be used as long as it is compatible with the line, (Kay: Col. 11, lines 5-9). The line in this sense is the “line of communication” between objects on the network and as such would need to be capable of information dissemination regardless whether the connection is physical or virtual. Further, as seen in Willis, the combination of physical and virtual network connectivity is an acceptable and functional form of network design. Thus, Claim 43 is unpatentable over the combined teachings of Kay in view of Willis.

18. Regarding Claims 38 and 39, Kay does not specifically disclose or describe the ability for the user of the subscriber device to establish a voice-band connection as a result of receiving data and to retrieve information over the voice-band connection. Willis ('647) discloses the use of a satellite network, (Willis: Abstract and Fig. 1), which is a wireless network. To incorporate the Willis wireless network functionality into the Kay network would have been obvious to one of ordinary skill in the art at the time of invention by applicant as the basic network functions of information dissemination are inherent within both designs.

19. The motivation to incorporate the Willis wireless network functionality into the Kay network is found within Kay as noted above. Kay indicates that any communication device may be used as long as it is compatible with the line, (Kay: Col. 11, lines 5-9). The line in this sense

is the “line of communication” between objects on the network and as such would need to be capable of information dissemination regardless whether the connection is physical, (voice-band) or virtual. Further, as seen in Willis, the combination of physical and virtual network connectivity is an acceptable and functional form of network design. Thus, Claims 38 and 39 are unpatentable over the combined teachings of Kay in view of Willis.

20. Claims 8, 27, 30, 45, 47, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable upon further consideration of US Patent 5,247,571 to Kay. Kay is relied upon for the teachings as discussed above relative to Claims 1, 12, 17, 18, 25, 29, 31, 35, 37 (on p.4), 37 (on p.5 formerly 41), 38 (on p.6 formerly 42), 40 (on p.5), 40 (on p.6 formerly 44), 42, 44 and 45.

21. Regarding Claim 8, Kay does not specifically disclose or describe a method for delivering data wherein the subscriber device interfaces the PSTN through the originating node; however, this type of network configuration would have been obvious to one of ordinary skill in the art at the time of invention by applicant as it is an inherent possibility within basic network design. The motivation to incorporate this type of network design into the Kay network is found within Kay’s requirement for a “wide Centrex communication network”, (Kay: Col. 23, lines 34-65 and Col. 24, lines 1-64). Thus, under further consideration of Kay (‘571), Claim 8 is also found to be unpatentable.

22. Regarding Claims 27, 30, 45, 47, and 50, it is noted that Kay (‘571) teaches the majority of the limitations within these claims, (as noted herein above referring to the limitations of Claim 1, et al.); however, Kay does not specifically disclose or describe the creation of a response message comprising the individual subscriber devices to which the node could not deliver data as

the subscriber devices had been ported; and the delivery of the plurality of request messages to nodes serving the ported subscriber devices.

23. In further consideration and interpretation of Kay, it is noted that the incorporation of a “ported” node response would have been obvious to one of ordinary skill in the art at the time of invention by applicant as a two-way response functionality is already described within Kay, (Kay: Col. 24, lines 6-23). The motivation to incorporate a “failed” delivery would be necessary, expected and inherent in such a two-way messaging network system. Thus, under further consideration of Kay ('571), Claims 27, 30, 45, 47, and 50 are also found to be unpatentable.

#### ***Response to Arguments***

24. Applicant's arguments filed 16 April 2004, have been fully considered but they are not persuasive. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how reconsideration avoids such references or objections.

25. In response to Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., specific data and data delivery instructions) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

26. Examiner notes that data (and data delivery instructions) may be defined in any number of ways and, as written, Applicant's claims are to be interpreted in the broadest way possible. As

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written and interpreted in the broadest way possible, Applicant's claims do not overcome the prior art as noted herein above. Again, it is the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in a manner that distinguishes over the prior art. It is the Examiner's position that the detailed functionality that allows for Applicant's invention to overcome the prior art used in the rejection is enumerated within Applicant's specification, (including but not limited to pp.18-19 & 22, etc.). Specifically, Examiner believes that the independent claims need to be amended to include the following in its entirety, (and please show where the same is noted within the specification when amending):

- no need to establish a phone call
- the switches do not need to examine the content of the data
- the data & data delivery instructions are in the packet wrapper, avoiding the need to open the packet
- the SPECIFIC data and data delivery instructions which distinguish Applicant's invention over the prior art, (note: a generic protocol doesn't need to distinguish between types of data, (voice, etc.))
- SPECIFIC end-to-end transportation protocol(s), (software means), which facilitate switching in and out of TCAP, (and distinguish over prior art TCAP use).

27. Thus, it is clear that Applicant must submit amendments to the claims in order to distinguish over the prior art use in the rejection that discloses different features of Applicant's claim invention. As Examiner has completely addressed Applicant's amendment, and finding

Applicant's arguments do not show how reconsideration avoids such references or objections, Examiner hereby maintains the original rejection of all claims in their entirety.

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

29. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (703)-305-0717. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (703)-308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703)-305-3718.

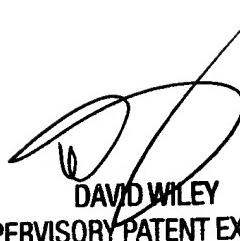
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-305-6121.

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Arrienne M. Lezak  
Examiner  
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